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Probers Told to Stall Cooke if He Sought Lawyer, Officer Says

By George Lardner Jr.
Washington Post Staff Writer

The Strategic Air Command's top legal officer told Air Force investigators last spring to begin interrogating a young lieutenant suspected of espionage and stall any request he might make for a lawyer, a military judge was told yesterday.

A lawyer then stationed with the Air Force Office of Special Investigations (OSI) said the directive came last May 5 from Brig. Gen. C. Claude Teagarden, the staff judge advocate and chief legal adviser at SAC headquarters in Omaha, Neb.

Top SAC officers later insisted on prosecuting 2nd Lt. Christopher M. Cooke after he admitted under a May 9 promise of immunity that he had supplied the Soviet Union with secret and top-secret information concerning U.S. strategic nuclear deployment.

Yesterday's testimony suggested that the case may have been tainted from the beginning.

Cooke, who faces a court-martial on three counts of espionage and 11 counts of illicit contacts with Soviet diplomats here, is seeking dismissal of the charges at a prolonged hearing before the military judge assigned to his case, Air Force Lt. Col. David Orser.

Under questioning by chief defense attorney F. Lee Bailey, Air Force Maj. William T. Snyder, then legal counsel for OSI, said Teagarden told him in a phone call last May 5, a few hours before Cooke was detained, "to advise him of his rights but if he asks for a lawyer, press on."

In other words, according to another witness, OSI counterintelligence chief Charles Torpe, Cooke was told of his right to remain silent and his right to a lawyer, but "if he asked for an attorney, we were somehow to work around that."

Snyder said he could not remember his precise response to Teagarden but said "the essence of it was, 'Sir, we cannot have it both ways.'" But he said Teagarden would not relent.

Snyder said he decided he could not sanction Cooke's questioning under those circumstances and asked Col. Grosvenor LeTarte, an official of the Air Force judge advocate general's office at the Pentagon, for help.

LeTarte, the court was told, informed Teagarden that "an interview could not proceed" unless Teagarden specifically authorized a go-ahead without advising Cooke of his rights.

Snyder said LeTarte spoke with Teagarden and then "looked at me and said we could proceed without an advisement of rights, that Gen. Teagarden had okayed it."

Torpe, who testified later, said this meant to him that any thought of prosecuting Cooke had been abandoned at the outset and that "full disclosure was the purpose."

Cooke gave OSI investigators an initial statement May 7 acknowledging several unauthorized visits and one unauthorized phone call to the Soviet Embassy here but insisting he was engaged in "academic" research and denying that he passed any secrets.

"... The statement was plausible but bizarre and therefore suspect," Torpe said. OSI decided to press for a polygraph examination, but Cooke refused.

Finally, on May 9, in an offer witnesses have said was sanctioned by Teagarden, Cooke was promised immunity and even an honorable discharge if he made a full disclosure and confirmed it with a polygraph examination. He also was advised of his rights and hired a lawyer that day.

All Air Force witnesses called by the defense have backed the conten-

tion that Cooke lived up to his part of the bargain. Gerald W. Craig, the chief OSI examiner who gave Cooke a three-day polygraph test following his admissions, testified yesterday that there was "no deception indicated."

Teagarden, who is expected to be called as a prosecution witness, has taken the position that Cooke broke the agreement because he had not told the truth in his first statement May 7. In addition, Air Force lawyers contend that the immunity offer was not sanctioned by then SAC commander-in-chief, Gen. Richard Ellis, and therefore not binding.

On that score, however, Craig said he was present at the OSI end of a phone conversation that OSI's chief investigator, Lt. Col. Jerome Hoffman, had with Teagarden May 9.

Craig said Hoffman explicitly asked whether the proposed deal represented "the wishes of" the SAC commander and announced immediately after the call, "This is what they want."